

## ENCLOSURE C

### SPECIAL CONDITIONS

#### 1. Basis for Requiring Special Conditions

The requirements that States ensure that children with disabilities participate in State- and district-wide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities in State- and district-wide assessments, are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139. The requirements regarding performance goals and indicators and the participation of children with disabilities in and reporting on participation and performance of children with disabilities in regular assessments have been in effect since July 1, 1998; the requirements regarding reporting on alternate assessments have been in effect since July 1, 2000. According to the information reported to the Department in the Biennial Performance Report for the 2000-2001 school year, Delaware had not yet developed and was not administering alternate assessments and reporting publicly and to the Secretary on the participation and performance of children with disabilities in State and district-wide assessments, including alternate assessments, as required by Part B of the Individuals with Disabilities Education Act (IDEA).

Therefore, the Department determined that Delaware had not complied with all the terms and conditions of the Federal Fiscal Year 2001 awards under Part B of IDEA, and, under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department imposed Special Conditions on Delaware's Federal Fiscal Years 2002 and 2003 awards under Part B. The Special Conditions for FFY 2003 required that Delaware demonstrate, by May 30, 2004, that it was developing and administering alternate assessments and reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The State did not meet that timeline and has not yet met the requirements of 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The State has informed the Department that it will provide documentation by the 2004-05 school year that it has reported publicly on the participation and performance of children with disabilities in alternate assessments. Therefore, the Department is imposing Special Conditions on Delaware's Federal Fiscal Year 2004 awards under Part B.

#### 2. Nature of the Special Conditions

By July 1, 2005, Delaware must demonstrate that it is reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The State must submit information on reporting publicly on the participation and performance of children with disabilities in alternate assessments in the Annual Performance Report

format provided by OSEP. (This format is available at <http://www.ed.gov/policy/special/guid/idea/monitor/index.html>.)

The State must:

- a. Submit to OSEP by December 1, 2004, a written plan detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments by May 30, 2005. The plan must ensure that students with disabilities, including students who take the alternate assessment, are assessed in the same grades as nondisabled students and that their participation in such assessments and the results of their assessments are reported with the same frequency and in the same detail as nondisabled students.
- b. Submit progress reports on January 31, 2005, March 28, 2005, and a final submission on May 30, 2005. The final submission that includes information on reporting publicly on the participation and performance of children with disabilities in alternate assessments is to be submitted in the Annual Performance Report format provided by OSEP. (This format is available at <http://www.ed.gov/policy/special/guid/idea/monitor/index.html>.)

3. **Evidence Necessary for Conditions To Be Removed**

The Department will remove the special conditions if, at any time prior to the expiration of the grant year, Delaware provides documentation, satisfactory to the Department, that it has fully met the requirements to report publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments. This information is to be submitted in the Annual Performance Report format provided by OSEP. (This format is available at <http://www.ed.gov/policy/special/guid/idea/monitor/index.html>.)

4. **Method of Requesting Reconsideration**

The State can write to Troy R. Justesen, Ed, D., delegated the authority to perform the functions of Assistant Secretary for Special Education and Rehabilitative Services if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

**5. Submission of Reports**

All reports that are required to be submitted by Delaware to the Department under the Special Conditions should be submitted to:

Sheila Friedman  
Office of Special Education Programs  
U.S. Department of Education  
550 12<sup>th</sup> Street SW, Room 4169  
Washington, DC 20004